Supreme Court, U.S.
FILED

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No. OFFICE OF THE CLERK

In THE
SUPREME COURT OF THE UNITED STATES

FAITHE FRANK,
PRO SE **Petitioner,**

Vs.

THE HONORABLE DUANE T. NEARY, REFEREE PRESIDING, PRESIDING SUPERIOR COURT OF THE STATE OF CALIFORNIA, SUPERIOR COURT OF ORANGE, SITTING AS THE JUVENILE COURT, ORANGE COUNTY, ET AL,

Respondents,

Petition For A Writ of Certiorari
To The United States Court of Appeals
For the Fifth Circuit

PETITION FOR WRIT OF CERTIORARI

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QUESTION(S) PRESENTED

Whether the trial court erred in violationing "Petitioner's" interests by retrying a case that was dismissed in STATE SUPREME COURT, SHERIFF, CLARK v. FRANK, 734 P.2d 1241 (Nev. 1987) No. 17671 March 31, 1987.

Whether the interests of "Petitioner" were erred by the trial court in termination parental rights in an instant case of "DOUBLE JEOPARDY."

Whether the trial court erred in depriving petitioner's constitutional right to maintain biological relationships with juvenile, creating a legal orphan.

Whether the Deputy District Attorney; Social Services, violated statutory duty to submit any evidence which would explain away the 'RED FLAGS" and false accusations against "Petitioner."

Whether respondents from "SOCIAL SERVICES" allowed witnesses to present inadmissible and highly inflammatory hearsay evidence which impaired the proper performance of trial court.

Whether "COURT APPOINTED DEFENDERS," in the present case, properly defended "Petitioner"; as more than half way through court proceedings, Public Defenders were changed.

Whether "Petitioners" Trial Counsel had the right to cross-examine social worker's report, but did not attempt to do so, because counsel did not know enough about the case.

PARTIES

The plaintiff below was Faithe Frank, biological mother of minor Benjamin Maxwell Beadle, in Orange County, Orange California. "FALSELY ACCUSED."

The defendants below were the Honorable Duane T. Neary Referee of presiding, Superior Court of the State of California, Superior Court of Orange, sitting as the Juvenile Court, Orange County; Clerk of the Superior Court (for Referee Duane T. Neary) County Counsel's Office; Laurence M. Watson, County Counsel, for Plaintiff and Respondent; Harold LaFlamme and Craig E. Arthur, under appointment by the Court of Appeal, for the Minor, Orange County Public Defenders; Michael Hughes; Esq.; Peggy Oppendale, Orange County Social Services Agency; Lisa Smith; Senior Social Worker; Cheryl Poynter; Senior Social Service Supervisor; Kari Sheffield; Juvenile Court Administrator; Rod Johnson; Senior Adoptions Officer; Lisa Poppins; Social Worker, Ms. Brock; Attorney for Social Services, The State of California, Orange County, Orange, California. Jill Tumminia; home study Social Worker.

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I

PETITION FOR WRIT OF CERTIORARI

Faithe Frank, biological mother of minor Benjamin Maxwell Beadle, respectfully request that a writ of certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Fifth Circuit in this case.

OPINIONS BELOW

The opinions of the Court of Appeal of The State of California Fourth Appellate District; Division Three, (App.1) and the Supreme Court of California, (App.1), are unpublished.

JURISDICTION

The jurisdiction of this Court is invoked pursuant to The Court of appeal of The State of California, Fourth Appellate District, Division Three. The opinion of the Court of Appeal of The State of California, Fourth District Appellate District, Division Three, was issued on October 16, 1998, and the petitioner's petition for rehearing was denied on October 21, 1998.

The jurisdiction of this court is invoked pursuant to the Fourth Appellate District, Division Three, in the Supreme Court of California, dated December 22, 1998. This case involves a federal question under 42 U.S.C. sec 1993.

CONSTITUTIONAL PROVISIONS AND STATUES INVOLVED

The First Amendment to the Constitution of the United States provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.

42 U.S.C sec 1983 provides:

Every person who under color of any statute, ordinance, regulation, custom, or usage, of any state or territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity injunctive relief shall not be granted unless a declaration decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

STATEMENT OF THE CASE

On March 3, 1998, Petitioners' parental rights were terminated. Without proper investigation on the part of the Orange County Social Services Agency, the trial court erred in violating "Petitioners" interests by retrying a case that was dismissed in STATE SUPREME COURT. Sheriff, Clark v. Frank, 734 P.2d 1241 (Nev. 1987) No. 17671 March 31, 1987.

This case is of great interest to the public, because of Petitioners First Amendment rights which involves significant questions prohibiting the free exercise thereof or abridging the freedom of speech, or to petition the government for a redress of grievances. At the March 3, 1998 permanency hearing, The Superior Court of The State of California, in and for the County of Orange sitting as The Juvenile Court, the Permanency Hearing (366.26 WIC), Lisa Smith, Social Worker, prepared a social service report for this hearing. Lisa Smith brought up about the accusations that my dad molested me. This report was also in the juvenile transcripts, and signed by Social Workers Lisa Smith; Senior Social Worker, and Cheryl Poynter; Senior Social Service Supervisor.

Accordingly, this involves significant questions prohibiting that no person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, (Sheriff, Clark v. Frank). Nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of life nor liberty, or property, without due process of law; nor shall private property be taken for public use without just compensation.

A. The California State Court's refusal to hear the petitioner's interests which were denied by the Superior Court of The State of California, in and for the the County of Orange sitting as the Juvenile Court, by terminating parental rights in an instant case of "DOUBLE JEOPARDY." Whether the trial court erred in Petitioner's interest, because in the instant case, the "RED FLAGS" were known to be "APPENDIX" - B, written by Social Workers; Lisa Smith and Cheryl Poynter - who investigated the instant case.

If a State Supreme Court has dismissed charges on the Frank and Wolper family, over ten years ago and Nevada Supreme Court follows the "NINTH DISTRICT COURT", as does California, why is it that I went to the "LAW LIBRARY" in Santa Ana and found my family's court case in the law book.

"SHERIFF, CLARK COUNTY v. Frank, cite as 734 P.2d 1241 (Nev. 1987). Was it too difficult for a social worker to send one of the state's attorney's or other worker to investigate this instant case of "RED FLAGS" which was dismissed over ten years ago? Is this the way that social services investigates their case? If this is true, then the social services has wrongly taken my son away from me! The lies about me and my family, were written without hesitation or confrontation with myself or my family. The transcripts from beginning to end, were based on lies and contradictory statements.

B. THE COURT OF APPEAL' S INITIAL DISMISSAL ON (Persuant to Cal. Const., art. VI, sec 21.) AFFIRMED.

As a result of Duane T. Neary; Temporary Judge's ruling, the petitioner filed an Appeal in the Fourth Appellate District. Petitioner Appeal on an Order Terminating Parental Rights to her son, Benjamin Beadle (Welf. & Inst. Code, sec 366.26). Petitioner contends the Juvenile Court should have applied the benefit exception to termination of parental rights. (3666.26, subd. (c) (1) (a). The relief requested by the First Amendment-base access requirements 42 U.S.C sec 1983. The primary relief requested by the petitioners access requirements, to allow the appeals court to conduct its own review of the facts in Permanency Hearing. (App. 2, 4, 5).

C. THE COURT ORDERED A 730 EVALUATION PATRITCIA YGLESISA.

The petitioner immediately appealed to the State Supreme Court. The State Supreme Court of California, denied petition for review. Petitioner states that a Dr. Patricia Yglesisa contradicts her own story (App.6). Dr. Yglesisa tries to say that the child was not gaining weight appropriately, but then she later admitted in her testimony, that she did not know how the child's weight, and she does not know anything about the child's physical measurements. The Dr. Patricia Yglesias tried to say that the child would suffer physical abuse and neglect, but in the testimony in the transcripts, the attorney asked Yglesia, "Do you see anything in the record that she has been physically abusive

to the minor?" "I don't recall, says Dr. Patricia Yglesias, that Faithe ever abused the minor."

The attorney asked Dr. Yglesias, "So would it be fair to state that nothing in Faithe Frank's past history that demonstrates she had not physically abused the child?" This was not answered by the Dr. Yglesia, because the Social Service Attorney stepped in and said that this witness does not know the mother's past history, but if Dr. Yglesia did a 730 evaluation on Faithe Frank, this Dr. Yglesias should have known Faithe Frank's past history.

Attorney: Regarding possible physical abuse, is there any information that you have from your interview and reviewing the report that have indicated in the past, that the mother has physically abused Benjamin? Dr. Yglesisa: I can't recall !! I can't recall !!

The Social Services Attorney interrupted the Public Defender, who was questioning Dr. Yglesias, and said to the Public Defender that, "Dr. Yglesias does not know the mother's past history. If the Dr. does not know the mothers past history, how can the Dr. Yglesisa do a good 730 evaluation, if she does not know mothers past history."

The testimony of the state's witnesses, were extremely contradictory with the answers that the witnesses quoted on the stand. Lisa Smith and Cheryl Pointer, Social Workers, wrote up a report for the permanency hearing and their report seemed to have no flaws, or contradictory evidence. I tried to bring these points up at my appeal. If the social worker's reports, which had no flaws, went to people in the court room, then how come the other state witnesses did not know the answers that the social workers knew? Most of the "state witnesses" did not come up with the same answers as the social workers? Why did the social workers have such a convincing report? If one expert finds abuse, and the expert doesn't recall any abuse, why do they come up different answers? When someone finds abuse, (a doctor), why does another witness not find abuse? My appeal

was turned down in the appeals court, so I did not have a chance to bring these points up to the court.

E. THE COURT OF APPEALS' OPINION

The Court of Appeals Opinion, was Petition denied. The Court of Appeals' Opinion, has no reasoning which leads a person to believe that this court went along with what the Juvenile Court wrote in their reports about the Petitioner. Finally, the Appeals Court, shows that they failed to show that they were justified with the Juvenile Courts ruling. This posses a true danger to future juvenile court hearings. Other parents will probably have the same experience as I have had in the Juvenile Courts.

If instant cases can pass through our juvenile court system, how can people get an honest outcome, in these courts? A new law has to be passed that won't accuse other innocent families, of the same instant lies as I encountered in the courts. Because the Juvenile Court System labels parents as guilty, how can children become acceptable citizens in our society?

REASONS FOR GRANTING PETITION

Section 1983 provides a federal cause of action that entitles a claimant to have a federal court declare whether a constitutional violation has occurred, and if so, provide a remedy for the deprivation. The decision by the Court of Appeals imperils the structure of right to relief under 42 U.S.C sec 1983. The decision by the court of appeals imperils the structure of the right to relief under [SECTION 1] 1. of U.S.C Amendment V, which provides that no person be subject for the same offense to be twice put in jeopardy of life or limb; nor be deprived of life, liberty, or property, without due process of law; [Section 1.] under U.S.C Amendment VII;
Bails-fines-punishments-Cruel and unusual punishments inflicted.; the right to relief under [Section 1] U.S.C. Amend, IX.

I. THE COURT OF APPEALS DECISION CONFLICTS WITH SHERIFF, CLARK COUNTY V. FRANK, cite as 734 P.2d 1241 (Nev. 1987).

Certain rights not denied to the people; the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people; the right to relief under [Section 1.] of U.S.C Amendment XIV, citizenship, representation, and payment of public debt; no state shall make or enforce any law which shall abridge the privileges or immunities of Citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws; provides a compelling basis for this court to review the decision of the Court of Appeals for the Fifth Circuit.

1. THE COURT OF APPEALS DECISION CONFLICTS WITH SHERIFF, CLARK COUNTY V. FRANK: Cite as 734 P. 2d 1241 (Nev. 1987) AND THE FOURTH APPELLATE DISTRICT, DIVISION THREE'S DECISION OF PERMANENCY HEARING (366.26 WIC).

The Court of Appeals erroneously held that interest of Social Services Agency pursuant to Section 361.21, 366.21, of the Welfare and Institutions Code not grant injunctive or declaratory relief against a state judge who has not considered merits of the plaintiff's claim.

In a rush to judgment, the Court of Appeals misconstrued the record. The court, and the social services agency incorrectly stated that the Petitioner had a history of mental illness with differing diagnoses, had been treated for depression and was receiving benefits for Permanent Psychiatric Disability due to Schizophrenia. The petitioner sought injunctive relief against the State Judge, the Honorable Duane T. Neary. In fact, the Orange County Social Services Agency, knowingly and without hesitation, denied certain rights which provides that no person be subject for the same offense to be twice put in jeopardy of life or limb; nor be deprived of life,

liberty, or property. Without due process of law; nor shall private property be taken for public use without just compensation.

Petitioner does not have a history of mental illness with differing diagnoses. Petitioner has not been treated for depression and was not receiving benefits for Permanent Psychiatric Disability due to Schizophrenia. Petitioner was on temporary disability, and diagnosed for generalized anxiety disorder, during which she was treated with antihistamine and is not required hospitalization. Currently, she is without signs or systems of generalized anxiety disorder.

This was brought up to the juvenile court judge by the Social Service Workers, Lisa Smith and Cheryl Poynter, used this diagnosis against Faithe Frank, Petitioner, as a means to gain custody of Petitioner's child, and as a means to take away her biological rights, to juvenile.

On (App.7), the social workers have written on a supplemental court report, to the Superior Court of the Sate of California, in the matter of permanency hearing (366.26 WIC) to take away Petitioners parental rights to her biological son without just cause and ignoring the correct test and evaluation results of a Dr. Gerald M. Maguire, who is a well known and respected Dr. of Psychiatry and Human Behavior.

When Petitioner told her social worker that she was previously tested by a Dr. Maguire, and a Dr. Schwerdtffeger, the social workers would tell the petitioner that the testing From these doctors where outdated, and she would have to see the doctor from the state. So, the workers presented the testing from the State Doctors to use against the petitioner. You can see in the exhibits presented, the reports from these Dr.'s are recent reports, and are very credible, honest, and are recently date.d The State Doctors, a Dr. Nair told social workers that they had treated and diagnosed her for Schizophrenia etc., and was border line intelligence, and permanently disabled. The petitioner has been off disability and is currently looking for job, and may also go back to college to get her Teaching Degree.

The Court of Appeals conflicts with the decisions of the State Supreme Court ruling which was dismissed March 31, 1987, Sheriff, Clark County v. Seth Frank, No. 17671, Supreme Court of Nevada. Sheriff, Clark County v. Frank.

With the First Amendment rights that congress shall make no law respecting an establishment of religion, or prohibiting the free exercise of, or abridging the freedom of speech, or of the press or the right of the people peaceably to assemble, and to petition the government for a redress of grievances. The denial of Petitioner's Appeal which refused to let petitioner present free exercise on behalf of freedom of speech, which could have argued that the state Dr.'s were not honest in their statement of facts presented to court. The State Doctors did not test petitioner as suppose to have been done, asking a few questions and going into full detail as did the other doctors that had tested petitioner. The State Doctors had received a written detailed letter ahead of time, so the doctors were more or less knowledgeable at what to write up on the petitioner, which is a deprivation of First Amendment deprivation (citing Brown and Board of Education, 349 US 294 301 (1955). This case authoritatively obligate the Federal Courts to hear claims to enforce with injunctive relief judgments entered in actions brought pursuant to 42 U.S.C. sec 1983 declaring a violation of First Amendment access rights.

II. THE COURT OF APPEAL'S DECISION CONFLICTS WITH AMENDMENT v. [SECTION] SHERIFF, CLARK COUNTY V. FRANK Cite as 734 P.d 1241 (Nev. 1987)

The court of appeals erroneously held that interest of Petitioner that a Superior Court should have investigated by their attorneys' if there was a case on the Frank and Wolper.

A previous case in the Ninth District Court in the Law Library. If the social services found that petitioners case was dismissed by the State Supreme Court in Nevada, then the petitioner's parental rights would not have been taken away at the permanency hearing (366.26 WIC). The Fifth Amendment

(Section 1) of the U.S.S.C., that no person shall be held to answer for a presentment of indictment of a Grand Jury, except in cases arising in the land or naval forces, or militia. Also states that any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty, or property, without due process of law, nor shall private property be taken for public use without due process of law.

At the court trial, on that very morning, Peggy Oppendale, was not able to handle my case. Peggy Oppendaole said that she had an emergency trial, and she could no longer be counsel to the Petitioner, Faithe Frank. The Petitioner did not agree to this, but Peggy Oppendale assured the petitioner that everything would be okay. The petitioner waited outside the courtroom for the new Public Defender. petitioner asked people who were also waiting in the hall way if this was the right thing to do, so late in the case.

The new attorney knew nothing about the petitioner's case, because the new attorney would have to read this new case every night to become knowledgeable in this new case.

The petitioner's privileges for Immunities of Citizenship of the United States, was deprived by the state social workers, and they willingly knew that petitioner was deprived of her life, liberty, and due process of law, and denied petitioner the equal protection of the laws.

The petitioner also states one night before the permanency hearing, she received a phone call from Peggy Oppendale, telling petitioner that she and her husband did not have to appear at the permanency hearing because the judge was going to take your rights anyway anyway.

Peggy Oppendale said, "if petitioner went to the hearing on the stand, the Judge would not listen to you because you are

on disability." Petitioner states that she was not on disability at that time.

Petitioner put her trust and life into the hands of her Public Defender, and not knowing about law, listened to her court appointed attorney. In one of the juvenile transcripts, it was mentioned that neither parent appeared at the permanency hearing that their attorney's submitted on the evidence, raised no objection to the reports submitted by the Orange County Social Services Agency. The Public Defender presented no additional evidence, did not cross examine the case workers, and did not make any argument. The Juvenile Court found Benjamin was adoptable and terminated parental rights. (App.10)

Jeffrey and Karen Frank, tried in vain to adopt Benjamin (App.11). Jeffrey and Karen Frank had a background check by the F.B.I, and the report came back on Karen and Jeffrey, with no problems or wrongdoing on behalf of Jeffrey or Karen. Lisa Smith told karen and Jeffrey that they would have to wait another six or eight months longer. Lisa Smith told Jeffrey and Karen that after the FBI and house investigation came back, and that if everything checked out okay, that Benjamin would be able to start spending weekends at their house. Jeffrey and Karen bought a new house, and furnished a beautiful bedroom for Benjamin. After the F.B.I check was approved, thinking that they would now have their beautiful nephew finally able to become a member of their family.

On March 3, 1998, the morning of the permanency hearing, Mr. Clifford Dover, as well as Petitioners biological father and grandmother, waited patiently, outside the juvenile court for four hours. Mr. Dover went into the juvenile court room and announced that he had been hired by the family to seek custody of Benjamin for the Family. One of the state social workers, a man, screamed at Attorney Dover, that he better get out of the court room because this was a hearing strictly for the biological parents only. The court knew that Mr. Dover was hired to help Karen and Jeffrey seek custody of Benjamin. Mr.

Dover had appeared at several custody hearings in the past, so it was not as though Mr. Dover was a stranger to the court. After about an hour of waiting outside the court hearing, on a bench with the family. Mr. Dover again went inside the courtroom Mr. Dover had petitioned the court earlier, so that he would be able to attend the hearing. Mr. Dover had written and he was turned down at every attempt by the juvenile judge and social workers. Mr. Dover asked the biological parents to sign a legal paper that Mr. Dover would be able to have legal standing in the juvenile court to get custody to the brother and his wife. The funny thing about this whole thing, is that this worker was one of the higher ups, who knew that Mr. Dover had applied for standing in the court room.

The social worker screamed and literally shoved Mr. Dover out of the court room The worker told Mr. Dover that, " if he tried once more to enter the court room, he would be held in contempt and be arrested." Mr. Dover and the family patiently waited for a total of four hours outside on the hall bench.

When the custody hearing was finally over, Mr. Dover asked one of the state social workers what went on in the court room. The answer from the worker to Mr. Dover, was that he could not tell him what took place because the biological family lost their rights to Benjamin.

Is this a standard procedure by the state to block an attorney from acquiring custody of a family's biological child? No one has ever heard of this type of thing happening in our system. This is the only chance that petitioner has of ever knowing or able to plead for the return of her son. Petitioner needs the help of the United States Supreme Court to lend a hand and try to have the petitioner over turn the lower court's decision. Petitioner begs the help of the court, to help exercise her First Amendment and Eighth and Fifth, Fourteenth, Tenth Amendment rights that were wrongfully taken away from her.

How can Petitioner's child benefit from this horrible mistake of justice? The juvenile child in this instant case of

"RED FLAGS" will always wonder what and why this happened to him, because the child had dearly loved his biological family with his heart and soul.

Jeffrey Frank is married to a black woman, and the social services in California is extremely prejudice against interracial marriages. This is why the social services used "RED FLAGS" as an excuse to deny biological brother, the right to adopt Benjamin. Sheriff, Clark County v. Frank, cite as 734 P.2d 1241 (Nev. 1987). Please see App.12.

THE COURT OF APPEALS DECISION CONFLICTS WITH AMENDMENT VIII [SECTION 1-1]

Excessive bail shall not be required nor excessive fines imposed, nor cruel and unusual punishment inflicted. This Amendment has been violated to the fullest extent by the social workers, to satisfy their needs to show that they have instant authority to take a child away from a good happy family. The need for a reversal of the lower court ruling, is of the greatest and immediate concerns, of petitioner and the American People!

On visits with Benjamin, the child would slowly change by crying and running around the visiting room. Lisa Smith told petitioner and family this was because the child was border - line intelligent, that this is the reason that Benjamin was put in a home called "COPES"

Lisa Smith said that Benjamin was tested by a Dr. Peterson who said that, "Benjamin was mildly to Moderately retarded." How can a two year old child be tested for an evaluation, when a two year old child can not sit as long as an adult can sit?

How can these people say these things about my son, when he was born, the doctor gave Benjamin a high score of "9" on the Apgar score? Benjamin was a cesarean delivery, and the Doctor said that Benjamin was very healthy and that the

nursery has never had such a healthy child like Benjamin, in a long time.

Mr. Johnson condemned the Frank Family for having "RED FLAGS". Mr. Johnson explained that he was mainly concerned about an adult "MALE" in the family, and that was the reason that he and the "ROUND TABLE EIGHT" and himself went to "Nevada" to find out for himself, what the truth was about the "RED FLAGS."

Petitioner told Mr. Johnson that the case against the family in Las Vegas, Nevada, County of Clark v. Frank, Cite as 734 P. 2d 1241 (Nev. 1987).

Mr. Johnson said that he believed the cops that he spoke to in Las Vegas, Nevada. Petitioner told Johnson that the cops who were on the case with the family, no longer were in Las Vegas. I told Johnson that the cops on the case were two women. Those women cops are in Europe, working with a woman by the name of "FAY YEAGER." This women Fay Yeager, Lives in Atlanta, Georgia, and was on the television show 20/20. The interviewer asked Fay Yeager, "How come you know so much about the law?" Fay Yeager did not answer, she just gave a little smile.

Petitioner states that the case about Clark County, v. Frank, is also police corruption.

Petitioner states that if the police that were on the case, were honest that they would have told Mr. Johnson, and the Roundtable Eight, the honest truth about the case, and that the case was dismissed from State Supreme Court in 1987, and also that the case made the law books for the Ninth District. Please see the App. 12, 13.

If the Social services found, that petitioners case was dismissed by State of Nevada, parental rights would not have been taken away at the permanency hearing.

Mr. Johnson told petitioner, that if she had any more children, that they would be taken away, and put in the same place that Benjamin was at. Mr. Johnson told Petitioner that Benjamin would just love to have a new brother or sister to Join him, where he was at.

After hearing what Mr. Johnson had just told me, I felt that if I did have another child, where would I go to make sure that this Mr. Johnson would not take this child away, as my precious Benjamin had been taken away. I can truly see why some American people go to another country to live and raise a family.

The resolution of the issue, in this case, is one whose consequences are pervasive and substantial. If the Court of Appeals analysis is permitted, it threatens the excercise of the First Amendment, Fifth Amendment, Eighth Amendment, and Fourteeth Amendment, the importance of securing the excercise of the First Amendment rights with remedy that the 42 U.S.C. sec 1983 was designed to provide litigants warrants the grant of certiorari.

CONCLUSION

Foregoing reasons, the petition for Certiorari should be granted. The Judgment of the Court of Appeals should be vacated in the case remanded with instructions to address the merits of the Petitioner's First Amendment claims, Amendment V. Amendment Eight, Amendment Fourteen claims, this an appropriate case for Summary Disposition on the merits, as provided by rule 16.1, because the First Amendment rights, Fifth Amendment, Eight Amendment, Fourteenth Amendment Rights at issue are irreparably injured by their deprivation for even minimal periods of time. Elrod, 427 U.S. at 374.

Respectfully Submitted,

Faith Frank